IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

CRL.A.No. 737 of 2000()

ST.2530/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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APPELLANT: COMPLAINANT:

PRASANTH, S/O.PANDARIKAL DIVAKARAN MASTER,
CHITTILAPPILLY VILLAGE, CHITTILAPPILLY DESOM,
THRISSUR.

BY ADV. SRI.M.V.MATHEW

RESPONDENTS:/ACCUSED /STATE:

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1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUKUMARAN, WINGS READYMADE,
   GARMENTS, M.G.ROAD, THRISSUR.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 737 of 2000

Dated this the 27th February, 2007.

J U D G M E N T

The complainant preferred this appeal challenging the dismissal of the complaint preferred under Section 138 of the Negotiable Instruments Act, against the second respondent, accused, which had been numbered as S.T.No.2530/99, on the file of the Judicial First Class Magistrate Court, Thrissur. The dismissal took place as the complainant, as well as his counsel were absent, on the appointed date. Hence, this appeal after obtaining leave of this Court.

2. In the appeal memorandum, it is stated that on the appointed date, the appellant, complainant, was present before the court and was waiting for his counsel. The counsel also arrived before the court below. But by that time, the case was called and the accused was acquitted.

3. However, there is no material produced before me to show that either the complainant or his counsel were present before the court below.

4. In the above circumstances, in order to give an opportunity to the parties to raise their contentions, I set aside the impugned order, dated 14.9.2000, and restore S.T.No.2530/99, to the file of the Judicial First Class Magistrate Court-II, Thrissur.

5. The parties shall appear before the court below on 26.3.2007.

6. This matter being of the year 1999, the learned Magistrate is directed to dispose of the same, within three months, from the date of appearance of the parties.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.

J.M. JAMES, J.

Criminal Appeal No. 737 of 2000

J U D G M E N T

Dated: 27th February, 2007.